

PLANNING BOARD MINUTES

May 5, 2014

Call The Meeting to Order

Chairman David Plunkett called the meeting to order at 7:35 P.M. in the Tewksbury Memorial High School, 1st Floor Teacher's Room. Present at the meeting were Robert Fowler, Stephen Johnson, Nancy Reed, Vincent Fratalia, Director of Community Development Steve Sadwick and Recording Secretary Dawn Cathcart. Also in attendance were Attorney Richard O'Neill and Building Commissioner Edward Johnson.

Continued Zoning Amendment Public Hearing for May 5, 2014 Annual Town Meeting – Article 32

Article 32 – Family Suites (O'Neill)

Attorney Richard O'Neill presented a revision to Article 32. The changes have been underlined and are described below:

- “(1) A Family Suite that contains not more than 800 square feet of floor area, nor more than one (1) bedroom, may be allowed as right, or, at the option of the Owner/Occupant, may be allowed by special permit from the Planning Board.” Attorney O'Neill stated that this will allow an as-right applicant to either use the restriction/subordination (if required) agreement or go for a Special Permit. Attorney O'Neill stated that he will remove the “/Occupant” from the bylaw.
- “(10) Annual Certification by notarized affidavit shall be provided to the Building Commissioner that the owner of the property, except for bona fide temporary absence, occupies one of the two dwelling units as a primary residence. In the case of a Family Suite Unit approved by special permit, failure to provide a certified affidavit on an annual basis shall represent sufficient cause for the Planning Board to revoke any special permit approved by it. In the case of a Family Suite Unit approved as of right, failure to provide a certified affidavit on an annual basis shall represent sufficient cause for the Building Commissioner to issue a Notice of Zoning Violation to the said owner and to undertake such remedial action as the Building Commissioner may, in his discretion, determine.” Attorney O'Neill stated that this language will add more enforcement.
- “(13) In the case of a Family Suite Unit approved by special permit, the Planning Board may impose such conditions on the special permit as it may deem appropriate to satisfy the Town's interest in limiting the number and degree of persons who may occupy a Family Suite Unit at any one time, together with such other conditions as it may deem appropriate, if any, including but limited to, provisions calling for the termination of the Special Permit and all rights granted thereunder in the event of a foreclosure sale of the premises for which the Special Permit has been granted by a Mortgagee or any lien holder of record with priority over said Special permit.””. Attorney O'Neill stated that this has the protection for the Town in case of a foreclosure. He also added language from Section 9400. Attorney O'Neill stated that he will remove the ending quote from the bylaw.
- “(14) In the case of a Family Suite Unit as right”. Attorney O'Neill stated that this first sentence was added to clarify the as right family suite.

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- “(17) The Planning Board may impose such special conditions, safeguards and limitations on time and use as it deems appropriate”. Attorney O’Neill stated that this is from Section 9400 which gives the permit granting rights to the Board.

Attorney O’Neill stated that he did not dare address the ownership issue right now. This needs to be worked on and looked at more deeply but it should be clarified.

Mr. Johnson asked if a home owned by an LLC comes in now, would we have a way to deal with it. Attorney O’Neill replied that there is no clear way to deal with it but perhaps a Trust could be addressed. In Burlington, they have a definition of owner. An LLC is a corporation, not a person but a Trust has trustees who would also be beneficiaries.

Mr. Plunkett stated that the Board needs to be very careful with opening this up to LLCs because they could become rental properties. Mr. Plunkett stated that it would be difficult to prove who is related in an LLC and it could open the Town up to commercial retail properties.

MOTION - Mr. Fowler made a motion to close the public hearing. The motion was seconded by Mr. Johnson and unanimously voted 5-0.

MOTION - Mr. Johnson made a motion to recommend adoption of the revised Article 32 as presented tonight with the deletion of “/Occupant” from #1 and the ending quote from #13. The motion was seconded by Mr. Fratalia.

Adjournment

MOTION - Mr. Johnson made a motion to adjourn the meeting at 7:50 PM. The motion was seconded by Mr. Fratalia and unanimously voted 5-0.

Approved on: 5/12/14

List of documents for 5/5/14 Agenda

Documents can be located at the Community Development Office

AGENDA:

1) Final Review of Annual Town Meeting Warrant and Recommendation.

- *Attorney O’Neill – Copy of Annual Town Meeting Warrant Article 32 – Section 3400 Family Suite*